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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,275	06/14/2001	Masanori Takano	444.31.01	6829

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EXAMINER	
BELL, MELTIN	

ART UNIT	PAPER NUMBER
2121	

DATE MAILED: 03/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/881,275	TAKANO, MASANORI	
	Examiner	Art Unit	
	Meltin Bell	2121	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 March 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) *1-7 and 9* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *8 and 10-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☒ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to application **09/881,275** filed 6/14/01 as well as the After Final Amendment filed 3/1/05. The finality of the Office action mailed 12/2/04 is withdrawn as agreed and summarized in the Interview Summary mailed 1/10/05. Claims 8 and 10-12 filed by the applicant have been entered and examined. An action on the merits of claims 8 and 10-12 appears below.

Priority

Acknowledgment is made of applicant's claim for foreign priority based on an application 2000-181045 filed in Japan on **6/16/00**.

Claim Rejections - 35 USC § 103

Applicant's arguments have been fully considered but they are not persuasive. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 8 and 10-12 are rejected under 35 U.S.C. 103(a) as being obvious over *Baer et al* USPN 4,357,014 "Interactive game and control therefor" (November 2, 1982) in view of *Horigami et al* USPN 6,585,599 "Game system and computer readable storage medium with reduced waiting period between selection and start of action of player character" (Patented July 1, 2003; Filed February 8, 2000).

Regarding claim 8:

Baer et al teaches,

- a mode determination process for determining whether each character should operate as an individual or as a crowd (column 5, lines 21-25, "The joystick can...a desired distance")

- a virtual object creation process for specifying a group of characters which form the crowd and creating a virtual object which gives movement information about movement to the group of characters when it is determined that each character should operate as part of a crowd (FIG. 4; column 5, lines 25-30, "moving the joystick...of the display")

- a crowd movement process for causing the group of characters to move on the basis of said movement information (FIG. 6A-C; column 5, lines 30-34, "Two axis joystick...will be possible")

- wherein said movement information contains information about a character assignment position in a virtual space and information about the destination direction of the virtual object (FIG. 4; column 3, lines 16-19, "Another item to...video football games")

However, *Baer et al* doesn't explicitly teach the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles, around a reference point determined based on the positions of the group of characters which form a crowd, and the characters in the same circle are evenly spaced apart while *Horigami et al* teaches,

- wherein the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles (column 12, lines 23-33), around a reference point determined based on the positions of the group of characters which form a crowd (column 10, lines 24-40), and the characters in the same circle are evenly spaced apart (Fig. 2)

Motivation – The portions of the claimed program would have been a highly desirable feature in this art for enhancing the pleasure of the game by improving elements which exert influence upon the selection of a character action (*Horigami et al*, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify *Baer et al* as taught by *Horigami et al* for the purpose of improving elements which exert influence upon the selection of a character action.

Regarding claim 10:

Baer et al teaches,

- a mode determination process for determining whether each character should operate as an individual or as a crowd (column 5, lines 21-25, "The joystick can...a desired distance")

- a virtual object creation process for specifying a group of characters which form the crowd and creating a virtual object which gives movement information about movement to the group of characters when it is determined that each character should operate as part of a crowd (FIG. 4; column 5, lines 25-30, "moving the joystick...of the display")

- a crowd movement process for causing the group of characters to move on the basis of said movement information (FIG. 6A-C; column 5, lines 30-34, "Two axis joystick...will be possible")

- wherein said movement information contains information about a character assignment position in a virtual space and information about the destination direction of the virtual object (FIG. 4; column 3, lines 16-19, "Another item to...video football games")

However, *Baer et al* doesn't explicitly teach the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles, around a reference point determined based on the positions of the group of characters which form a crowd, and the characters in the same circle are evenly spaced apart while *Horigami et al* teaches,

- wherein the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles (column 12, lines 23-33), around a reference point determined based on the positions of the group of characters which form a crowd (column 10, lines 24-40), and the characters in the same circle are evenly spaced apart (Fig. 2)

Motivation – The portions of the claimed program would have been a highly desirable feature in this art for enhancing the pleasure of the game by improving elements which exert influence upon the selection of a character action (*Horigami et al*, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify *Baer et al* as taught by *Horigami et al* for the purpose of improving elements which exert influence upon the selection of a character action.

Regarding claim 11:

Baer et al teaches,

- a mode determination process for determining whether each character should operate as an individual or as a crowd (column 5, lines 21-25, "The joystick can...a desired distance")

- a virtual object creation process for specifying a group of characters which form the crowd and creating a virtual object which gives movement information about movement to the group of characters when it is determined that each character should operate as part of a crowd (FIG. 4; column 5, lines 25-30, "moving the joystick...of the display")

- a crowd movement process for causing the group of characters to move on the basis of said movement information (FIG. 6A-C; column 5, lines 30-34, "Two axis joystick...will be possible")

- wherein said movement information contains information about a character assignment position in a virtual space and information about the destination direction of the virtual object (FIG. 4; column 3, lines 16-19, "Another item to...video football games")

However, *Baer et al* doesn't explicitly teach the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles, around a reference point determined based on the positions of the group of characters which form a crowd, and the characters in the same circle are evenly spaced apart while *Horigami et al* teaches,

- wherein the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles (column 12, lines 23-33), around a reference point determined based on the positions of the group of characters which form a crowd (column 10, lines 24-40), and the characters in the same circle are evenly spaced apart (Fig. 2)

Motivation – The portions of the claimed program would have been a highly desirable feature in this art for enhancing the pleasure of the game by improving elements which exert influence upon the selection of a character action (*Horigami et al*, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify *Baer et al* as taught by *Horigami et al* for the purpose of improving elements which exert influence upon the selection of a character action.

Regarding claim 12:

Baer et al teaches,

- a mode determination process for determining whether each character should operate as an individual or as a crowd (column 5, lines 21-25, "The joystick can...a desired distance")

- a virtual object creation process for specifying a group of characters which form the crowd and creating a virtual object which gives movement information about movement to the group of characters when it is determined that each character should operate as part of a crowd (FIG. 4; column 5, lines 25-30, "moving the joystick...of the display")

- a crowd movement process for causing the group of characters to move on the basis of said movement information (FIG. 6A-C; column 5, lines 30-34, "Two axis joystick...will be possible")

- wherein said movement information contains information about a character assignment position in a virtual space and information about the destination direction of the virtual object (FIG. 4; column 3, lines 16-19, "Another item to...video football games")

However, *Baer et al* doesn't explicitly teach the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles, around a reference point determined based on the positions of the group of characters which form a crowd, and the characters in the same circle are evenly spaced apart while *Horigami et al* teaches,

- wherein the character assignment position in said virtual space is a position in one circle or in a plurality of concentric circles (column 12, lines 23-33), around a reference point determined based on the positions of the group of characters which form a crowd (column 10, lines 24-40), and the characters in the same circle are evenly spaced apart (Fig. 2)

Motivation – The portions of the claimed program would have been a highly desirable feature in this art for enhancing the pleasure of the game by improving elements which exert influence upon the selection of a character action (*Horigami et al*, Abstract). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify *Baer et al* as taught by *Horigami et al* for the purpose of improving elements which exert influence upon the selection of a character action.

RESPONSE TO APPLICANTS' REMARKS

Claim Rejections - 35 USC § 103

Applicant argues that Baer et al USPN 4,357,014 column 5, lines 21-25 does not disclose a mode determination process for determining whether each character should operate as an individual or as a crowd that is performed automatically by the game program (After Final Amendment REMARKS page 3, last paragraph and page 4, paragraph 1), Baer et al column 5, lines 25-30 and Fig. 4 do not disclose anything about specifying a group of characters which form a crowd (After Final Amendment REMARKS page 4, paragraph 3), Baer et al column 3, lines 16-19 and Fig. 4 discloses nothing about a virtual object which gives movement information that contains information about a character assignment position in a virtual space (After Final Amendment REMARKS page 5, paragraph 2). Applicant's arguments have been fully considered but they are not persuasive.

In regards to the "mode determination process" arguments, Office personnel are to give claims their **"broadest reasonable interpretation"** in light of the supporting disclosure. *In re Morris,* 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Since a clear definition of "mode determination process" was not present in the specification, the limitations appearing in the specification but not recited in the claim (specification page 17, lines 10-13 and specification page 7, lines 21-23 for examples given in After Final REMARKS page 3, paragraph 2) are not read into the claim. *In re Prater,* 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551(CCPA 1969). See *also *In re Zletz,* 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322(Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow .... The reason is simply that during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed .... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process."). *see* MPEP § 2106. In regards to specifying a group of characters which form a crowd and a virtual object which gives movement information that contains information about a character assignment position in a virtual space arguments, *Baer et al* column 3, lines 16-19, column 5, lines 25-30 and Fig. 4 are cited for explicitly and inherently addressing these limitations.

Applicant argues that *Horigami et al* USPN 6,585,599 column 12, lines 23-33, column 10, lines 24-40, Fig. 2 and Abstract are not directed to crowd movement and

therefore would not motivate a person of ordinary skill in the art to modify *Baer et al* (After Final Amendment REMARKS page 5, last paragraph and page 6, paragraph 1) and *Horigami et al* Fig. 2 and column 12, lines 23-33 do not disclose the determination of a reference point based on the positions of the group of characters which form a crowd (After Final Amendment REMARKS page 6, paragraph 2). Applicant's arguments have been fully considered but they are not persuasive. *Horigami et al* Fig. 2, column 10, lines 24-40 and column 12, lines 23-33 are cited for explicitly and inherently addressing these limitations. Furthermore, *Horigami et al*'s Abstract suggests crowd movement and provides improving elements which exert influence upon the selection of a character action as the purpose and motivation for modifying *Baer et al* USPN 4,357,014 as taught by *Horigami et al*.

As set forth above with regards to *Baer et al* and *Horigami et al*, the items listed explicitly and inherently teach each element of the applicants' claimed limitations. Applicants have not set forth any distinction or offered any dispute between the claims of the subject application, *Baer et al*'s Interactive game and control therefor and *Horigami et al*'s Game system and computer readable storage medium with reduced waiting period between selection and start of action of player character.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The following prior art made of record is considered pertinent to applicant's disclosure:

- Davis; USPN 5,423,554; Virtual reality game method and apparatus
- Salley; USPN 5,865,676; Game board having mechanical characters
- Okada et al; USPN 6,419,577; Semi-real time simulation type video game device

Any inquiry concerning this communication or earlier communications from the Office should be directed to Meltin Bell whose telephone number is 571-272-3680. This Examiner can normally be reached on Mon - Fri 7:30 am - 4:00 pm.

If attempts to reach this Examiner by telephone are unsuccessful, his supervisor, Anthony Knight, can be reached on 571-272-3687. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MB
March 7, 2005

Anthony Knight
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Group 3600